Comprehensive Environmental Assessment of Proposed Project Impacts for Chapter 105 Water Obstruction and Encroachment Permit Applications

Association of State Wetlands Managers

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Tom Wolf, Governor

Patrick McDonnell, Acting Secretary
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The purpose of this guidance is to clarify the process for submitting a comprehensive environmental assessment in a permit application for review by the Department of Environmental Protection (DEP) for large scale projects, including, phased projects, and projects that are located in more than one Pennsylvania County and are covered by more than one single permit application.
Background

- 25 Pa. Code Chapter 105. 13 (d) requires a single permit application for proposed project impacts by the same applicant in each County.
- Large scale projects and linear projects, including but not limited to, highway and pipeline projects often cross multiple counties and are covered by multiple permit applications (one application per county).
- Each single County permit application will include an Environmental Assessment for the project impacts in that County. However, a comprehensive Environmental Assessment for the entire project should also be provided.
Applicability

• This policy applies to applications for Chapter 105 Water Obstruction and Encroachment Permits proposing impacts to waters of the Commonwealth.

• This policy does not apply to Chapter 105 General Permits registrations.
1. The applicant should provide a Comprehensive Project Environmental Assessment that includes a narrative which specifically discusses the measures undertaken to avoid and minimize the overall project’s impact on waters of the Commonwealth to the maximum extent practicable in accordance with Chapter 105, Sections 105.13(e)(1)(viii), 105.13(e)(1)(x), 105.14(b)(14), 105.15, and 105.18a(a) and 105.18a(b).

2. For overall project impacts which cannot be avoided or minimized, the applicant should describe in detail all of the specific measures undertaken or that will be taken to mitigate for the overall project impacts in accordance with Chapter 105, Sections 105.1, 105.13(e)(1)(ix) and 105.20a.
3. The applicant should demonstrate the overall project consistency with the State antidegradation requirements contained in 25 Pa. Code Chapter 93, Sections 93.4a through Section 93.4c; 25 Pa. Code Chapter 102, Sections 102.2, 102.4(b)(6), and 102.8(h); 25 Pa. Code Chapter 105, Sections 105.18a(a)(6) and 105.18a(b)(6), and 25 Pa. Code Chapter 95, when applicable. The Applicant may summarize and use the antidegradation information from the Chapter 102 permit application(s) submitted for the overall project and summarize and use information from the Chapter 105 permit application(s) submitted for the overall project, which addresses the requirements of Chapter 105, Sections 105.18a(a)(6) and 105.18a(b)(6). This information should be included in both the Alternatives Analysis and Part 2 (E) of the DEP Environmental Assessment Form.
4. When the proposed project is located in more than one County, the applicant should also include in each County-specific permit application the Alternatives Analysis, Impacts Analysis, and mitigation measures, for the proposed project impacts in that specific County.

5. In Part 2 (D) of the DEP Environmental Assessment Form, the applicant must assess the cumulative impact of the project and other existing and potential projects, including direct and secondary impacts, and temporary and permanent impacts, on each wetland resource in the proposed project area.
Other Existing Permanent Project Impacts - Existing permanent wetland impacts in, along, across or projecting into the wetland resource.

Other Potential Projects Proposing Permanent Impacts - Future anticipated permanent wetland impacts in, and along, across or projecting into the wetland resource including:

- (i) Proposed but not yet built permanent wetland impacts proposed by the applicant; or
- (ii) Other permanent wetland impacts from projects proposed by other entities authorized by valid DEP Chapter 105 Water Obstruction and Encroachment Permits (issued in the last five years, i.e. not expired), but not constructed.
The applicant should demonstrate in each County-specific permit application an explanation as to how the County-specific permit application’s proposed project impacts are consistent with the State antidegradation requirements.

The applicant must include in Part 2 (D) of the DEP Environmental Assessment Form a discussion of the proposed compensation including mitigation measures to offset the County-specific permit application permanent project impacts.
Phased Projects

When projects may be proposed and permitted in distinct phases because each phase(s) is an independent project: DEP may accept remote sensing for preliminary data gathering with respect to potential future anticipated impacts in a future phase of a project, as long as these future anticipated impacts are outside the scope and identified purpose of the project phase(s) for which the applicant is seeking a permit authorization (i.e., when permitting Phase I, DEP may accept remote sensing for consideration of comprehensive environmental assessment for additional impacts from future phases, as those impacts are not yet being permitted).
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